

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ERIC GRIFFIN,

Plaintiff,

vs.

WHITE HOUSE, *et al.*,

Defendants.

Case No. 2:08-cv-00303-RCJ-GWF

**ORDER & FINDINGS AND
RECOMMENDATIONS**

***Application to Proceed In Forma
Pauperis (#1)***

This matter is before the Court on Plaintiff's Application to Proceed *In Forma Pauperis* and Complaint (#1), filed on March 7, 2008.

DISCUSSION

I. Screening the Complaint

Upon granting a request to proceed *in forma pauperis*, a court must additionally screen a complaint pursuant to 28 U.S.C. § 1915(e). Specifically, federal courts are given the authority to dismiss a case if the action is legally "frivolous or malicious," fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). A complaint, or portion thereof, should be dismissed for failure to state a claim upon which relief may be granted "if it appears beyond a doubt that the plaintiff can prove no set of facts in support of his claims that would entitle him to relief." *Buckey v. Los Angeles*, 968 F.2d 791, 794 (9th Cir. 1992). A complaint may be dismissed as frivolous if it is premised on a nonexistent legal interest or delusional factual scenario. *Neitzke v. Williams*, 490 U.S. 319, 327–28 (1989). Moreover, "a finding

1 of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the
2 wholly incredible, whether or not there are judicially noticeable facts available to contradict them.”
3 *Denton*, 504 U.S. at 33. When a court dismisses a complaint under § 1915(e), the plaintiff should be
4 given leave to amend the complaint with directions as to curing its deficiencies, unless it is clear from
5 the face of the complaint that the deficiencies could not be cured by amendment. *See Cato v. United*
6 *States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

7 Plaintiff alleges that Marie O’Rourke, U.S. Department of Justice officer, has continued to try to
8 cover up the U.S. government’s use of biological weapons against Plaintiff and 250 other victims.
9 Plaintiff alleges that Ms. O’Rourke knew that biological weapons were being used against Plaintiff
10 which would eventually kill Plaintiff.

11 Plaintiff further alleges that Wells Fargo Bank informed Plaintiff that he was a victim of fraud
12 and was being held hostage by “voice to skull/mkultra,” which Plaintiff asserts is a life threatening
13 biological weapon banned by Congress.

14 Plaintiff further alleges that on February 18, 2008, Vice President Dick Cheney “violated”
15 Plaintiff by not informing an investigator from Senator Reid’s office to aid Plaintiff by removing the
16 banned biological weapon. Accordingly,

17 **IT IS HERBY ORDERED** that Plaintiff’s Application to Proceed *In Forma Pauperis* (#1) is
18 **granted**. Plaintiff shall not be required to pre-pay the full filing fee of three hundred fifty dollars
19 (\$350.00).

20 **IT IS FURTHER ORDERED** that the Clerk of the Court shall file the Complaint.

21 **RECOMMENDATION**


22 Based on the foregoing, it is the **recommendation** of the undersigned United States Magistrate
23 Judge that the Complaint should be **dismissed** with prejudice based on an indisputably meritless legal
24 theory and frivolity.

25 **NOTICE**

26 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in
27 writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the
28 courts of appeal may determine that an appeal has been waived due to the failure to file objections

1 within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1)
2 failure to file objections within the specified time and (2) failure to properly address and brief the
3 objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues
4 from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*
5 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

6 DATED this 11th day of March, 2008.

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9 **GEORGE FOLEY, JR.**
UNITED STATES MAGISTRATE JUDGE